

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

TAMMY L. CALEF,

Plaintiff,

v.

// CIVIL ACTION NO. 1:06CV47  
(Judge Keeley)

FEDEX GROUND PACKAGE SYSTEM, INC.,

Defendant.

JUDGMENT ORDER

This action came on for trial before the Court and a jury, the Honorable Irene M. Keeley, United States District Judge, presiding, on January 2, 3, 4 and 7, 2008. The issues having been duly tried, the jury rendered its verdict on the 7th day of January, 2008, as follows:

SPECIAL INTERROGATORIES

Interrogatory No. 1: Do you find, by a preponderance of the evidence, that the defendant, FedEx Ground Package System, Inc., regarded the plaintiff, Tammy L. Calef, as disabled on February 24, 2004?

✓ Yes                      No

If your answer to Interrogatory No. 1 is "Yes," then please proceed to Interrogatory No. 2. If your answer to Interrogatory No. 1 is "No," please go to Verdict Form No. 2 and enter a verdict in favor of the defendant, FedEx Ground Package System, Inc.

Interrogatory No. 2: Do you find, by a preponderance of the evidence, that the plaintiff, Tammy L. Calef, on February 24, 2004, was able and competent to perform the essential functions of the

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job of "Pick up and Delivery ("P and D") Services Manager, Level III"?

      ✓       Yes                                 No

If your answer to Interrogatory No. 2 is "Yes," then please proceed to Interrogatory No. 5. If your answer to Interrogatory No. 2 is "No," then please proceed to Interrogatory No. 3.

**Interrogatory No. 3: Do you find, by a preponderance of the evidence, that the plaintiff, Tammy L. Calef, could have performed the essential functions of her job on February 24, 2004, if the defendant, FedEx Ground Package System, Inc., had provided reasonable accommodation?**

           Yes                                 No

If your answer to Interrogatory No. 3 is "Yes," please proceed to Interrogatory No. 4. If your answer to Interrogatory No. 3 is "No," please go to Verdict Form No. 2 and enter a verdict in favor of the defendant, FedEx Ground Package System, Inc.

**Interrogatory No. 4: Do you find, by a preponderance of the evidence, that the defendant, FedEx Ground Package System, Inc., provided reasonable accommodation to the plaintiff, Tammy L. Calef?**

           Yes                                 No

If your answer to Interrogatory No. 4 is "Yes," please go to Verdict Form No. 2 and enter a verdict in favor of the defendant, FedEx Ground Package System, Inc. If your answer to Interrogatory No. 4 is "No," please proceed to Interrogatory No. 5.

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Interrogatory No. 5: Do you find, by a preponderance of the evidence, that the defendant, FedEx Ground Package System, Inc., took an adverse employment action against the plaintiff, Ms. Calef?

      ✓       Yes                                         No

If your answer to Interrogatory No. 5 is "Yes," please proceed to Interrogatory No. 6. If your answer to Interrogatory No. 5 is "No," please go to Verdict Form No. 2 and enter a verdict in favor of the defendant, FedEx Ground Package System, Inc.

Interrogatory No. 6: Do you find that the defendant, FedEx Ground Package System, Inc., articulated a legitimate, non-discriminatory reason for taking its adverse employment action against the plaintiff, Tammy L. Calef?

                   Yes                            ✓       No

If your answer to Interrogatory No. 6 is "Yes," please proceed to Interrogatory No. 7. If your answer to Interrogatory No. 6 is "No," please go to Verdict Form No. 1 and enter a verdict in favor of the plaintiff, Tammy L. Calef.

Interrogatory No. 7: Do you find, by a preponderance of the evidence, that the defendant, FedEx Ground Package System, Inc.'s articulated reason for its adverse employment action against the plaintiff, Tammy L. Calef, was a pretext for unlawful disability discrimination?

                   Yes                                         No

If your answer to Interrogatory No. 7 is "Yes," please go to Verdict Form 1 and enter a verdict in favor of the plaintiff, Tammy L. Calef, and then please proceed to Interrogatory No. 8. If your answer to Interrogatory No. 7 is "No," please go to Verdict Form

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No. 2 and enter a verdict in favor of the defendant, FedEx Ground Package System, Inc.

**Interrogatory No. 8:** Do you find, by a preponderance of the evidence, that the defendant, FedEx Ground Package System, Inc.'s, offer of employment to the plaintiff, Tammy L. Calef, on September 20, 2007, was unconditional?

\_\_\_\_\_ Yes                      ✓ No

If your answer to Interrogatory No. 8 is "Yes," then you should not award the plaintiff, Tammy L. Calef, any damages for the period after which she would have returned to work, had she accepted FedEx's offer. If your answer to Interrogatory No. 8 in "No," then you should calculate damages as per the instructions.

DATED: January 7, 2008

/s/ Foreperson  
Foreperson

**VERDICT FORM NUMBER 1**

We, the Jury, find by a preponderance of the evidence for the **Plaintiff Tammy L. Calef**, and award the following damages:

(A) **Back Pay**, if any, in the amount of:

\$274,557.00

(B) **Front Pay**, if any, in the amount of:

\$263,771.00

(C) **Emotional distress, humiliation and embarrassment**, if any, in the amount of:

\$270,000.00

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DATED: January 7, 2008

/s/ Foreperson

Foreperson

Thereupon, the Court ascertained that the verdict represented the unanimous opinion of the members of the jury and finding the verdict to be in due form, the verdict was accepted and the Clerk is hereby **ORDERED** to file said verdict and enter judgment accordingly.

It is further **ORDERED** and **ADJUDGED** that the plaintiff has prevailed in this action on the claim of disability discrimination under the West Virginia Human Rights Act, W.Va. Code § 5-11-9.

Pursuant to Rule 59(b) of the Federal Rules of Civil Procedure the parties have ten (10) days following the entry of this judgment order to file post-trial motions. If no motions are filed, this action will be dismissed on the merits and stricken from the docket of the Court.

The Clerk is directed to transmit copies of this order to counsel of record.

DATED: January 9, 2008

/s/ Irene M. Keeley

IRENE M. KEELEY

UNITED STATES DISTRICT JUDGE